

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

THOMAS H. KRAKAUER, on behalf )  
of a class of persons, )

Plaintiff, )

v. )

1:14-CV-333

DISH NETWORK, LLC, )

Defendant. )

**ORDER**

In connection with the pending motion for entry of an order governing disposition of undisbursed class funds, Doc. 577, the Court has decided that reversion is not appropriate, for reasons to be explained in a later opinion. The Court is of the tentative view that:

1. It cannot decide between *cy pres* distribution and escheat without determining whether there is an appropriate recipient who suitably represents the interests of or benefits the class members.
2. Escheat to states is not the better option, in view of the likely administrative costs, divisibility questions, and management issues which would result.
3. The decision comes down to a choice between *cy pres* distribution to identified group or groups, to escheat to the federal government, or to a combination of those two options.

The Court directs class counsel to file a supplemental brief no later than September 28, 2020, addressing the first tentative conclusion, perhaps by suggesting

specific recipients, along with evidence, or by suggesting an appropriate procedure to identify and select a recipient, or otherwise as class counsel deems appropriate. Class counsel may include in the brief any further thoughts on or discussion of the second and third tentative conclusions, along with supplemental evidence if appropriate.

Dish has no interest in the judgment funds it has already paid and which the Court has decided will not revert to it. Dish has a post-verdict record of obstruction and filing briefs that attempt to re-litigate already-decided issues and do not advance the ball. A brief from the wrongdoer, who has no duty to the class, is unlikely to be helpful on the questions remaining under consideration. While the Court will not invite the defendant to be heard directly, Dish is free to pass on to class counsel any potentially appropriate *cy pres* recipient it identifies, and if Dish does so by September 4, 2020, class counsel shall address the suggestion in their brief.

It is **ORDERED** that no later than September 28, 2020, class counsel, on behalf of the class, shall file a supplemental brief and evidence addressing selection of an appropriate *cy pres* recipient and which may address the equitable choice between state escheat, federal escheat, and *cy pres*.

This the 18th day of August, 2020.

  
UNITED STATES DISTRICT JUDGE